

TRANSLATION **PATENT COOPERATION TREATY**
PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
 (Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 2140/PCT	FOR FURTHER ACTION	
		See Form PCT/IPEA/416
International application No. PCT/CH2004/000367	International filing date (day/month/year) 17.06.2004	Priority date (day/month/year) 24.09.2003
International Patent Classification (IPC) or national classification and IPC A61K7/48		
Applicant STOOP, Remo		

<ol style="list-style-type: none"> 1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36. 2. This REPORT consists of a total of 7 sheets, including this cover sheet. 3. This report is also accompanied by ANNEXES, comprising: <ol style="list-style-type: none"> a. <input checked="" type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of 7 sheets, as follows: <table border="0" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%;"><input checked="" type="checkbox"/></td> <td style="width: 85%;">sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</td> </tr> <tr> <td><input type="checkbox"/></td> <td>sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</td> </tr> </table> b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions). 		<input checked="" type="checkbox"/>	sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).	<input type="checkbox"/>	sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.												
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<ol style="list-style-type: none"> 4. This report contains indications relating to the following items: <table border="0" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%;"><input checked="" type="checkbox"/></td> <td style="width: 85%;">Box No. I Basis of the report</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. II Priority</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. IV Lack of unity of invention</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VI Certain documents cited</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VII Certain defects in the international application</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VIII Certain observations on the international application</td> </tr> </table> 		<input checked="" type="checkbox"/>	Box No. I Basis of the report	<input type="checkbox"/>	Box No. II Priority	<input type="checkbox"/>	Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/>	Box No. IV Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/>	Box No. VI Certain documents cited	<input type="checkbox"/>	Box No. VII Certain defects in the international application	<input type="checkbox"/>	Box No. VIII Certain observations on the international application
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Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/CH2004/000367

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:

international search (Rule 12.3 and 23.1(b))
 publication of the international application (Rule 12.4)
 international preliminary examination (Rule 55.2 and/or 55.3)

2. With regard to the **elements** of the international application, this report is based on (replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):

the international application as originally filed/furnished
 the description:

pages 2-11 as originally filed/furnished
 pages* 1, 1a received by this Authority on 07.02.2005 with letter of 12.11.2004
 pages* _____ received by this Authority on _____

the claims:

nos. _____ as originally filed/furnished
 nos.* _____ as amended (together with any statement) under Article 19
 nos.* 1-21 received by this Authority on 01.12.2005 with letter of 28.11.2005
 nos.* _____ received by this Authority on _____

the drawings:

sheets _____ as originally filed/furnished
 sheets* 1/2, 2/2 received by this Authority on 10.08.2004 with letter of 29.07.2004
 sheets* _____ received by this Authority on _____

a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3. The amendments have resulted in the cancellation of:

the description, pages _____
 the claims, nos. _____
 the drawings, sheets/figs _____
 the sequence listing (specify): _____
 any table(s) related to sequence listing (specify): _____

4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

the description, pages _____
 the claims, nos. _____
 the drawings, sheets/figs _____
 the sequence listing (specify): _____
 any table(s) related to sequence listing (specify): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	<u>1-13, 16-18</u>	YES
	Claims	<u>14, 15, 19-21</u>	NO
Inventive step (IS)	Claims		YES
	Claims	<u>1-21</u>	NO
Industrial applicability (IA)	Claims	<u>1-21</u>	YES
	Claims		NO

2. Citations and explanations (Rule 70.7)

1. Reference is made to the following documents:

D2: WO 89/12440 A (RIBI JOHANN) 28 December 1989
 D4: FR 609 177 A (Aschéro) 10 August 1926
 D5: DE 29 03 159 A1 (Kirchner, Georg)
 31 July 1980

2. This international application claims:

- an agent,
- that is suitable for removing tattoos,
- characterised by a pH of less than 7,
- containing
- A 10-20 wt.% of an alkali chloride in an aqueous solution and
- B oil
- (claim 1),
- an arrangement,
- that is suitable for implementing a method for removing tattoos,
- characterised by a tool,
- comprising two or more needles which are

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Box No. V **Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

secured on a support at a specific,
unspecified distance from one another,
--- which is connected to a drive unit in such a
way as to be replaceable
(claim 19),

- a production process
-- for an agent that is suitable for removing
tattoos,
-- characterised by the use of an aqueous
solution,
-- which has a pH of less than 7 and contains A
and B

(claim 14) and

- a method
-- for removing tattoos,
-- characterised by topical application of an
agent as per claim 1

(claim 16).

3. The application contains two independent claims of
the same category: both claim 1 and claim 19 are
directed to products.

Those products are not directly linked, since in
the claimed method the agent as per claim 1 can
also be used without the arrangement as per
claim 19 (see claim 17) and since the indication
that the arrangement can be operated using agents
as per claim 1 is non-limiting.

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The extent to which the requirements for unity of invention are satisfied will therefore need to be examined in any subsequent regional patent granting procedure.

4. Novelty

The present application does not meet the requirements of PCT Article 33(1) because the subject matter of independent claims 14 and 19 lacks novelty (PCT Article 33(2)).

4.1 Document D2 discloses a composition for removing tattoos, characterised in that it contains 80 wt.% coconut milk and 4-10 wt.% lactic acid. As is known, coconut milk contains oils as well as alkali- and chloride ions in the form of mineral salts in an aqueous solution. The lactic acid naturally results in an acidic pH.

D2 thus anticipates the subject matter of production claim 14 in a manner prejudicial to novelty.

4.2 Document D5 discloses an arrangement that is suitable for use in a method for removing tattoos, characterised by a tool (38) which comprises a set of needles, said tool being connected by means of a screw connection to a drive unit in such a way as to be replaceable (D5, page 16, lines 2 and 3). The indication in the current claim 19 that the needles "are interconnected at one end" does not

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rule out a connection generated by a holder.

Also, the indication in claim 19 that the needles "are arranged at a distance from one another" cannot be used to delimit over the prior art whilst the distance remains unspecified.

5. Inventive step

5.1 The present application does not meet the requirements of PCT Article 33(1) because the subject matter of claim 1, and therefore also the subject matter of claim 16, does not involve an inventive step (PCT Article 33(3)).

Document D4 is considered the closest prior art and discloses in lines 34-36 a topically applied composition for removing tattoos, containing water and 7.4 wt.% sodium chloride, the pH being set in the acidic range with the aid of oxalic acid.

The subject matter of the current claim 1 differs therefrom in that the composition contains more sodium chloride and also an oil.

Oils have been common additives in skin care products since ancient times.

The application does not contain any experimental evidence which shows that the above distinguishing features are actually linked to a technical effect. Those features therefore cannot be considered when assessing inventive step.

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Box No. V**Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

5.2 The passage in claim 16, "the agent is made to penetrate the skin", cannot be considered a technical feature for solving the stated problem; said passage represents rather a desire, that is a statement of the problem without the possible solutions being indicated. The possible solutions appear only in dependent claims 17 and 18.